

# **EXHIBIT TT**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

ASHEVILLE DIVISION

CARYN DEVINS STRICKLAND,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Civil No. 1:20-cv-00066-WGY
	)	
UNITED STATES OF AMERICA, <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	
	)	
	)	

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**DECLARATION OF PLAINTIFF’S COUNSEL REGARDING EXHIBIT TT**

I, Cooper Strickland, declare as follows:

1. I represent Plaintiff and make this declaration of my own personal knowledge.
2. Exhibit O to Plaintiff’s renewed motion for summary judgment references audio recordings that were previously provided to this Court through a conventionally filed CD exhibit. *See* ECF Nos. 170, 173. Plaintiff’s counsel served the full recordings on Defendants’ counsel during discovery, and Defendants’ counsel subsequently amended the Answer to Plaintiff’s complaint to incorporate the substance of recordings. *See* ECF No. 210, ¶¶ 266, 318, 370, 415.
3. Exhibit TT contains transcripts of the recordings that are referenced in Exhibit O. The transcripts were prepared by Defendants and produced in discovery, and are true and accurate copies thereof.
4. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 29th day of June, 2023 at Lynn, North Carolina.

\_\_\_\_\_  
/s/ Cooper Strickland  
Cooper Strickland



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# Transcript of 180905\_1042

**Case:** Caryn Devins Strickland -v- United States of America, et al.

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CONVERSATION

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"180905\_1042"

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IN RE: CARYN DEVINS STRICKLAND V. UNITED STATES OF

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AMERICA, ET AL.

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20 Job No.: 479402

21 Pages: 1 - 60

22 Transcribed by: Christian Naaden

1 I was getting when I got into this job, which was to be  
2 able to, you know, get trained and up to speed to be an  
3 assistant federal defender, to do, you know, the type  
4 of work that, you know, interests me to the extent they  
5 have the case load for it.

6 You know, and as part of that, I mean, the --  
7 the -- there is a whole issue with the trials versus  
8 appeals. What I had wanted was to be able to do some of  
9 my own trial cases in order to make me a better  
10 appellate attorney. But, you know, they've told me I  
11 can no longer do those. You know, they've basically  
12 just demoted me to a pure research and writing position  
13 from what I can figure out.

14 And, so, you know, what I want is to be able  
15 to do the job that I was hired for and to be able to do  
16 it without feeling ethically compromised and without  
17 feeling just like my job is being interfered with. My  
18 job duties are being interfered with for reasons that  
19 are completely inappropriate and unprofessional.

20 So, that's it in a nutshell.

21 MR. ISHIDA: Mm. We- -- we- -- well -- well,  
22 Caryn, what -- well -- well said and -- and

1 passionately said I may add. And that's certainly  
2 understandable.

3           You know, let -- let me address the history  
4 part of this. I'm in a little bit of a disadvantage  
5 because all of this, of course, happened before I came  
6 on board. But -- but I did hear about some of the back  
7 story that you alluded to and, you know, I -- Tony and  
8 I came in roughly at the same time, that's why, you  
9 know, I don't -- I -- I wasn't part of his hiring, I  
10 wasn't part of the conversions.

11           But -- but I -- but from the stories I heard,  
12 it -- it -- I -- I agree, it sounded like it was a  
13 really kind of a troubled office before. The judges  
14 have expressed a lot of concern. There was a -- there  
15 was a lot of serious issues for -- that were going on  
16 in the office.

17           And, so, you know, it was felt that, you know,  
18 we need a -- we need a new structure, we needed form,  
19 we needed the leadership and I do know from the stories  
20 I've heard that they were -- the judges were very  
21 mindful of, okay, we need -- we need change and we need  
22 good change and we need to change the culture, first

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1 and foremost.

2 And when they -- when they were looking at  
3 candidates, they were -- they were genuinely impressed  
4 with Tony because of what he had done, his experience,  
5 and -- and -- and just his general track record and  
6 reputation that he got as first assistant in -- you  
7 know, [inaudible] C and -- and that's why Tony was  
8 brought on to -- to kind of really help that office  
9 [inaudible].

10 Yeah, I mean, your concerns I think are well  
11 founded and --

12 MS. STRICKLAND: Right. And, you know, I'll  
13 tell you another just -- like I -- you know, it's funny  
14 because I was hearing a lot of the same things and --  
15 and I -- you know, really, really believed in Tony and  
16 I -- you know, I didn't come in being like, oh, what's  
17 Tony going to do or what -- I mean I have really done  
18 nothing but give him the benefit of the doubt until I  
19 reached --

20 MR. ISHIDA: Mm-hmm.

21 MS. STRICKLAND: -- completely the end of the  
22 road and felt like it was no longer warranted.

1 don't see how Tony can be involved in any way in the  
2 process and have it be fair, given my experience, you  
3 know.

4 MR. ISHIDA: Mm-hmm. Well, Caryn, you know,  
5 you've -- you've -- you've painted a challenging  
6 picture about trust. I mean, you know, once -- once  
7 trust has been broken, it's -- it's really hard to  
8 piece it back together again. And -- and, you know, I  
9 had -- I don't know if you know this but I had a  
10 conversation with Sheryl Walter, the general counsel at  
11 the AO and --

12 MS. STRICKLAND: Okay.

13 MR. ISHIDA: -- other -- other -- other people  
14 from the AO and we -- we -- we had a conversation about  
15 -- about alleviating some of your concerns.

16 And one of the things that Sheryl really  
17 wanted me to do, given -- given the concerns that  
18 you've raised with them was, that after the  
19 investigation is finished, the report has been  
20 compiled, Sheryl wanted me to receive the report and  
21 not Tony Martinez. And -- and, you know, I -- I kind of  
22 thought, well, you know, that's -- that's not really in



1 the process or plan.

2 But I approached Tony about it and kind of  
3 said, this is the concern, would you be willing to let  
4 me receive the report first. And -- and he was fine  
5 with that. Just -- just -- just so you know. And -- and  
6 he thought it would be helpful, yeah, you know, you --  
7 why don't you accept the report and we'll go from  
8 there.

9 I -- you know, so I told Sheryl, sure, I'm  
10 willing to -- I'm willing to accept the report and  
11 depending on what it says, we'll -- we'll just go from  
12 there. But what I did tell Sheryl too, was just my  
13 sense that, I -- I understand why, you know -- do you  
14 feel -- I mean, having been a supreme court fellow, you  
15 know, you've made contacts and connections and  
16 relations with some people at that AO, so you feel more  
17 comfortable going to them. I said I get all that and  
18 that I probably would do the same thing.

19 I just told Sheryl that, in this case, it may  
20 not be entirely helpful because we're now giving it  
21 arms' length instead of trying to communicate issues  
22 and concerns directly and I -- one of the things I

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1 mentioned to Sheryl was things can get -- when that  
2 happens, you know, the -- the barriers go up, the walls  
3 go up, the people are on guard and I -- and I'm -- I'm  
4 concerned that there isn't real dialogue between the  
5 parties. And -- and trust can break down and all sorts  
6 of things.

7 So, I said, I'm happy to accept the report but  
8 -- but this is my concern that we -- we may hinder a  
9 dialogue between you and Tony in really kind of trying  
10 to resolve this.

11 So, that's -- that's -- that's kind of -- that  
12 -- now I -- I did want to -- I did want to mention that  
13 to you, Caryn, but I also -- I also want to -- I also  
14 want to tell you too that, you know, my -- my -- my  
15 heart goes out to you. I -- I hear what you're saying.  
16 You know, in another life I was an assistant public  
17 defender --

18 MS. STRICKLAND: Oh.

19 MR. ISHIDA: -- and so when you -- when you  
20 talk about, you know, your passion for the job and --  
21 and just wanting to, you know, really do what you love,  
22 I mean, I -- I -- I get that because I was -- I was

## 1 CERTIFICATE OF TRANSCRIBER

2 I, Chris Naaden, a transcriber, hereby declare  
3 under penalty of perjury that to the best of my ability  
4 from the audio recordings and supporting information;  
5 and that I am neither counsel for, related to, nor  
6 employed by any of the parties to this case and have no  
7 interest, financial or otherwise, in its outcome, the  
8 above 59 pages contain a full, true and correct  
9 transcription of the tape-recording that I received  
10 regarding the event listed on the caption on page 1.

11  
12 I further declare that I have no interest in  
13 the event of the action.

14  
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17 February 10, 2023

18 Chris Naaden  
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# Transcript of 180918-0845

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<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7 CONVERSATION</p> <p>8 "180918-0845"</p> <p>9 IN RE: CARYN DEVINS STRICKLAND V. UNITED STATES OF</p> <p>10 AMERICA, ET AL.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Job No.: 479402</p> <p>21 Pages: 1 - 64</p> <p>22 Transcribed by: Christian Naaden</p>	<p>3</p> <p>1 left, and maybe over there, maybe the entrance to the -</p> <p>2 -</p> <p>3 MR. COOPER: [Inaudible].</p> <p>4 MS. STRICKLAND: Yeah.</p> <p>5 MALE 2: [Inaudible].</p> <p>6 FEMALE 3: Thank you.</p> <p>7 FEMALE 4: [Inaudible].</p> <p>8 FEMALE 5: Good morning. [Inaudible].</p> <p>9 MR. COOPER: [Inaudible].</p> <p>10 MS. STRICKLAND: Yeah. It's a little, um -- I</p> <p>11 guess that's why they're renovating that. It's full of</p> <p>12 [inaudible]. It's got kind of like a nice historic look</p> <p>13 to it.</p> <p>14 MR. COOPER: Mm-hmm.</p> <p>15 MS. STRICKLAND: But still I thought that they</p> <p>16 were still in that courthouse. It's beautiful.</p> <p>17 MR. COOPER: [Inaudible].</p> <p>18 MS. STRICKLAND: Um, I think it's Judge</p> <p>19 [inaudible] I think. I'm surprised we haven't run into</p> <p>20 him yet. Maybe he got in earlier.</p> <p>21 MR. COOPER: This is [inaudible] because of</p> <p>22 the possibility. It seems to be so much [inaudible].</p>
<p>2</p> <p>1 P R O C E E D I N G S</p> <p>2 MR. COOPER: [Inaudible].</p> <p>3 MS. STRICKLAND: [Inaudible]?</p> <p>4 MR. COOPER: Negative. [Inaudible] closer.</p> <p>5 MS. STRICKLAND: Yeah.</p> <p>6 MR. COOPER: [Inaudible].</p> <p>7 MS. STRICKLAND: [Inaudible] but there's a</p> <p>8 chance that the jury deliberation [inaudible]. I know</p> <p>9 it's [inaudible], it's just [inaudible]. [Inaudible]</p> <p>10 and they just do that [inaudible]. I have [inaudible]</p> <p>11 I'll just send my concerns right there.</p> <p>12 MR. COOPER: [Inaudible]?</p> <p>13 MS. STRICKLAND: [Inaudible].</p> <p>14 MR. COOPER: It is [inaudible].</p> <p>15 MS. STRICKLAND: Well, I think -- I mean, it's</p> <p>16 the jury deliberation room for that court room. So I</p> <p>17 feel like it's [inaudible].</p> <p>18 FEMALE 2: [Inaudible].</p> <p>19 MR. COOPER: So we'll probably [inaudible]</p> <p>20 access today?</p> <p>21 MS. STRICKLAND: Well, it might be. Okay. So</p> <p>22 after visitor [inaudible] have been taken immediately</p>	<p>4</p> <p>1 MS. STRICKLAND: I agree. Yeah. I agree.</p> <p>2 [Inaudible].</p> <p>3 MR. COOPER: [Inaudible].</p> <p>4 MALE 4: Morning.</p> <p>5 MR. COOPER: Morning.</p> <p>6 MS. STRICKLAND: Morning.</p> <p>7 MR. COOPER: [Inaudible].</p> <p>8 MS. STRICKLAND: Well, he has to walk past</p> <p>9 this [inaudible].</p> <p>10 MR. COOPER: Are you excited for that?</p> <p>11 MS. STRICKLAND: No. [Inaudible]. We don't</p> <p>12 have to go down the stairs.</p> <p>13 MR. COOPER: Okay. [Inaudible].</p> <p>14 MS. STRICKLAND: I don't [inaudible].</p> <p>15 MALE 5: [Inaudible].</p> <p>16 FEMALE 6: Awesome. Thank you.</p> <p>17 FEMALE 7: Oh yeah. Hi. How are you. Good to</p> <p>18 see you. Do you remember [inaudible]?</p> <p>19 MR. COOPER: Yeah. I do. I do.</p> <p>20 FEMALE 7: [Inaudible] because I might run</p> <p>21 into you today.</p> <p>22 MR. COOPER: Yes. I'm -- I'm upstairs</p>

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<p>5</p> <p>1 [inaudible].</p> <p>2 FEMALE 7: Good luck.</p> <p>3 MR. COOPER: [Inaudible].</p> <p>4 FEMALE 7: Yeah. Good seeing you. [Inaudible].</p> <p>5 MS. STRICKLAND: Hi. I'm Caryn Strickland.</p> <p>6 MR. ISHIDA: Caryn, hi. I'm James Ishida, nice</p> <p>7 to meet you.</p> <p>8 MS. STRICKLAND: Hi, this is my husband,</p> <p>9 Cooper.</p> <p>10 MR. ISHIDA: Cooper. Hi, nice to meet you.</p> <p>11 MR. FRANK: I'm Frank [inaudible].</p> <p>12 MS. STRICKLAND: Hi. We met maybe a while ago.</p> <p>13 Yeah. But it's good seeing you.</p> <p>14 MR. FRANK: Yep. Nice to meet you. Cooper.</p> <p>15 MR. COOPER: Frank.</p> <p>16 MR. FRANK: Nice to meet you.</p> <p>17 MR. COOPER: Yeah.</p> <p>18 MR. ISHIDA: You guys are welcome over here</p> <p>19 and have a seat.</p> <p>20 MS. STRICKLAND: Oh sure. Thank you.</p> <p>21 Appreciate it.</p> <p>22 MR. ISHIDA: This spot is our attorney lounge.</p>	<p>7</p> <p>1 MS. STRICKLAND: Man, that's horrible.</p> <p>2 MR. ISHIDA: I was supposed to go to Newburn</p> <p>3 today but the judge there told me don't even try. So</p> <p>4 I'm going to try to get to Raleigh tomorrow and see how</p> <p>5 far it needs to come. But -- but on the whole, I think</p> <p>6 the state did pretty well considering.</p> <p>7 MS. STRICKLAND: Yeah. Better than expected</p> <p>8 maybe.</p> <p>9 MR. ISHIDA: Yeah. Yeah. So it was -- it was -</p> <p>10 - it was really -- I'm -- I'm glad I -- I'm glad I --</p> <p>11 I'm glad I came down here and I'm glad the timing</p> <p>12 worked out. I'm glad the timing worked out.</p> <p>13 MS. STRICKLAND: Yeah. No. It's nice to meet</p> <p>14 in person for sure. I think that makes a difference,</p> <p>15 so.</p> <p>16 MR. ISHIDA: Well, Caryn, thanks for -- for</p> <p>17 meeting with me. Um, I wanted to start by saying I -- I</p> <p>18 got a number of the things and I got some of the things</p> <p>19 you sent Judge Gregory.</p> <p>20 MS. STRICKLAND: Excuse me.</p> <p>21 MR. ISHIDA: Is there anything else that -- I</p> <p>22 mean, because I was kind of in a mad dash to leave, so</p>
<p>6</p> <p>1 Sorry, it took -- it took a second to get setup. Come</p> <p>2 on now.</p> <p>3 MS. STRICKLAND: It's all right. Thank you.</p> <p>4 Where would you like us to sit?</p> <p>5 MR. ISHIDA: Sit anywhere you're comfortable.</p> <p>6 MS. STRICKLAND: Okay. I guess I'll move</p> <p>7 inside. So did you, um -- your travels were okay? I was</p> <p>8 thinking about, man, what terrible timing with the</p> <p>9 hurricane and everything.</p> <p>10 MR. ISHIDA: We were okay. Actually it's</p> <p>11 really good timing because I was coming down</p> <p>12 [inaudible] to make sure everything was okay. So it</p> <p>13 actually worked out great. So I was in Winston-Salem</p> <p>14 yesterday.</p> <p>15 So the middle district was -- was okay. I</p> <p>16 mean, the leaks and a few things, but on whole the</p> <p>17 district came out okay. And then here it's better than</p> <p>18 there. So it's -- it's -- it's -- it's good to know.</p> <p>19 The Eastern District is another story.</p> <p>20 MS. STRICKLAND: Not. Yeah.</p> <p>21 MR. ISHIDA: I mean, Wilmington, Newburn, the</p> <p>22 courthouses there are just flooded and so.</p>	<p>8</p> <p>1 I'm not sure I got everything that you sent.</p> <p>2 MS. STRICKLAND: Okay. The thing -- so I</p> <p>3 printed out all the things that I have, so there's the</p> <p>4 request for counseling, there's the kind of written</p> <p>5 complaint or grievance, this part of it.</p> <p>6 MR. ISHIDA: Right. Which supports the</p> <p>7 request.</p> <p>8 MS. STRICKLAND: Correct. And there's a</p> <p>9 request for disqualification and stay.</p> <p>10 MR. ISHIDA: Right. Which you entrusted with</p> <p>11 Gregory. Okay. Is the -- was there anything else that</p> <p>12 you sent us?</p> <p>13 MS. STRICKLAND: Not at this time. Okay.</p> <p>14 MR. ISHIDA: I did have a chance to talk to</p> <p>15 Judge Gregory. We were -- we were at the judicial</p> <p>16 conference in DC earlier this -- or last week. And we</p> <p>17 chatted briefly about the request that you made to him.</p> <p>18 I think he was a little surprised because I -- I told</p> <p>19 him what you could expect was a request for</p> <p>20 continuance, and he said he was fine with that.</p> <p>21 That's not a problem. But when he got -- when</p> <p>22 he saw the disqualification and then when he saw the, I</p>

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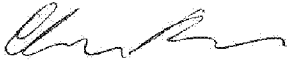
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<p style="text-align: right;">9</p> <p>1 guess the stay, he -- he was a little kind of taken</p> <p>2 aback by that. Not that he was adverse, but he just</p> <p>3 wasn't expecting that. But I wanted to know if we can</p> <p>4 chat with that in the overall kind of context of where</p> <p>5 we want to go with this.</p> <p>6 So we're proceeding under the Fourth Circuit's</p> <p>7 EDR plan. That has a provision of confidentiality. So,</p> <p>8 you know, you can -- we can only talk about this on a</p> <p>9 need to know basis with people who are actually --</p> <p>10 absolutely critical to the process. So I have not</p> <p>11 shared this with anybody outside Judge Gregory. And I</p> <p>12 don't -- I don't think he's done that either.</p> <p>13 MS. STRICKLAND: Okay.</p> <p>14 MR. ISHIDA: We can -- we can still go ahead</p> <p>15 with the request. The disqualification of Tony</p> <p>16 Martinez, if you want to pursue that, makes it harder</p> <p>17 to -- for me to talk to him about things that you may</p> <p>18 want from his office. So just something to think about.</p> <p>19 And the -- the stay of the investigation, you've also</p> <p>20 filed request of wrongful conduct, which --</p> <p>21 MS. STRICKLAND: Correct.</p> <p>22 MR. ISHIDA: -- as you know would trigger an</p>	<p style="text-align: right;">11</p> <p>1 think that's, I guess from the perspective of him being</p> <p>2 like a, you know, potential violator talking to him or</p> <p>3 as somebody involved in the process from the</p> <p>4 perspective of -- of administering the investigation,</p> <p>5 you know what I mean? Because those are two different</p> <p>6 things.</p> <p>7 MR. ISHIDA: Sure. I think -- well, she</p> <p>8 wouldn't -- Heather would not have known that you're</p> <p>9 also including Tony in some of your allegations,</p> <p>10 because that was never part of the initial --</p> <p>11 MS. STRICKLAND: Right.</p> <p>12 MR. ISHIDA: -- concern about sexual</p> <p>13 harassment with JP. What I got, and which I don't think</p> <p>14 Heather got -- Heather knows about, is you're also</p> <p>15 implicating Tony.</p> <p>16 MS. STRICKLAND: Okay.</p> <p>17 MR. ISHIDA: So that would -- well, I would</p> <p>18 imagine that would cast a different take on Heather's</p> <p>19 questioning of Tony than it would if she thought the</p> <p>20 focus was solely on JP.</p> <p>21 MS. STRICKLAND: Right. And I think that's --</p> <p>22 that's kind of why I was asking for those things.</p>
<p style="text-align: right;">10</p> <p>1 investigation anyway.</p> <p>2 MS. STRICKLAND: Correct.</p> <p>3 MR. ISHIDA: So I guess I'm not quite sure.</p> <p>4 We've already got Heather Beam who I've appointed to</p> <p>5 investigate the initial allegations, but you're asking</p> <p>6 us to stop that but then we have to initiate another</p> <p>7 investigation. So I'm just wondering.</p> <p>8 MS. STRICKLAND: Yes. And -- yes. That is --</p> <p>9 that is exactly what I am asking for. Yes. And the</p> <p>10 reason why I asked for that is because I felt like it</p> <p>11 was necessary because -- and maybe this is something</p> <p>12 you can tell me, is Tony involved with the wrongful</p> <p>13 conduct investigation with Heather?</p> <p>14 MR. ISHIDA: Well, I mean, you -- well, Tony -</p> <p>15 - Heather would have interviewed Tony as part of the</p> <p>16 investigation. I think her plan was to talk to you,</p> <p>17 talk to Tony, talk to JP. I think at the -- at -- at --</p> <p>18 at the very outset. I don't -- I haven't talked to her</p> <p>19 so I don't know that, but I -- I suspect that that's</p> <p>20 what she was going to do. So she was going to talk to</p> <p>21 Tony anyway.</p> <p>22 MS. STRICKLAND: But as like a -- I mean, I</p>	<p style="text-align: right;">12</p> <p>1 MR. ISHIDA: Sure. Sure. No, no, no. And --</p> <p>2 and I understand, and that makes sense. What I might --</p> <p>3 what I might suggest you do is in light of the</p> <p>4 grievance that you gave me, is I can give this to</p> <p>5 Heather and ask her to include this in her overall</p> <p>6 investigation, because this obviously expands the</p> <p>7 initial scope, which I think -- I'm just thinking</p> <p>8 logistically that probably makes sense but it is your</p> <p>9 choice.</p> <p>10 MS. STRICKLAND: Yeah. I mean, I guess -- so,</p> <p>11 and again, you can completely just correct me if I'm</p> <p>12 wrong, but my understanding of what had happened was</p> <p>13 that Tony kind of initiated the wrongful conduct</p> <p>14 investigation to begin with. Which -- and -- and that,</p> <p>15 you know, originally Heather was to report to him.</p> <p>16 MR. ISHIDA: Well, initially.</p> <p>17 MS. STRICKLAND: Right.</p> <p>18 MR. ISHIDA: At the very outset the way the</p> <p>19 process would work is it's -- it's once -- once there's</p> <p>20 a report of wrongful conduct, then that report has to</p> <p>21 get forwarded to me as the EDR coordinator, and then</p> <p>22 I'm obligated to notify the chief judge and the -- the</p>

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<p>61</p> <p>1 direction you go in.</p> <p>2 MS. STRICKLAND: Okay.</p> <p>3 MR. ISHIDA: Yeah. And of course I won't say</p> <p>4 anything to anybody else at this point because we don't</p> <p>5 know how we're going to go forward.</p> <p>6 MS. STRICKLAND: Okay.</p> <p>7 MR. ISHIDA: So, do you have any questions for</p> <p>8 me?</p> <p>9 MS. STRICKLAND: I think you answered most of</p> <p>10 the questions. Let me just -- I had written down a</p> <p>11 couple, so let me just make sure that I'm not missing</p> <p>12 anything. No. I -- I think this was very informative</p> <p>13 and I appreciate you taking the time. Do you have any</p> <p>14 questions? Okay. No.</p> <p>15 MR. ISHIDA: I think you've got -- you've got</p> <p>16 my -- you don't have my -- you've got my email address.</p> <p>17 You don't have -- I'm going to be traveling.</p> <p>18 MS. STRICKLAND: Okay.</p> <p>19 MR. ISHIDA: So after this I'm going to</p> <p>20 Raleigh, but I've also got a visit to [inaudible] so</p> <p>21 I'm not going to be back in the office this week. If</p> <p>22 you would like to reach me this week, here's my cell</p>	<p>63</p> <p>1 MR. COOPER: I'll do that.</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p>62</p> <p>1 phone number.</p> <p>2 MS. STRICKLAND: Okay.</p> <p>3 MR. ISHIDA: And so you can just let me know.</p> <p>4 Otherwise [inaudible].</p> <p>5 MS. STRICKLAND: Okay. Thank you.</p> <p>6 MR. ISHIDA: Thank you so much for coming out.</p> <p>7 MR. COOPER: Thank you.</p> <p>8 MS. STRICKLAND: Thank you.</p> <p>9 MR. COOPER: I think [inaudible] do something</p> <p>10 with the lights. I'll figure that out.</p> <p>11 MS. STRICKLAND: We'll figure that out. All</p> <p>12 right. Thank you very much.</p> <p>13 MR. COOPER: Thank you very much. I</p> <p>14 appreciate.</p> <p>15 MR. ISHIDA: Thank you. Have a good one.</p> <p>16 MR. COOPER: Thank you. You want to go to the</p> <p>17 restroom?</p> <p>18 MS. STRICKLAND: Let's -- yeah. Let's go to</p> <p>19 the restroom.</p> <p>20 MR. COOPER: Okay. Let me hold your stuff when</p> <p>21 you go.</p> <p>22 MS. STRICKLAND: No. No. You go first.</p>	<p>64</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, Chris Naaden, a transcriber, hereby declare</p> <p>3 under penalty of perjury that to the best of my ability</p> <p>4 from the audio recordings and supporting information;</p> <p>5 and that I am neither counsel for, related to, nor</p> <p>6 employed by any of the parties to this case and have no</p> <p>7 interest, financial or otherwise, in its outcome, the</p> <p>8 above 63 pages contain a full, true and correct</p> <p>9 transcription of the tape-recording that I received</p> <p>10 regarding the event listed on the caption on page 1.</p> <p>11</p> <p>12 I further declare that I have no interest in</p> <p>13 the event of the action.</p> <p>14</p> <p>15 </p> <p>16</p> <p>17 February 10, 2023</p> <p>18 Chris Naaden</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

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# Transcript of 181005\_1434\_Redacted\_Limited Confidentiality

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## CONVERSATION

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"181005\_1434\_Redacted\_Limited Confidentiality"

9

IN RE: CARYN DEVINS STRICKLAND V. UNITED STATES OF  
AMERICA, ET AL.

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20 Job No.: 479402

21 Pages: 1 - 262

22 Transcribed by: Christian Naaden

## Transcript of 181005\_1434\_Redacted\_Limited Confidentiality

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1 MS. STRICKLAND: Okay. Sure. [inaudible]

2 MS. BEAM: How's [inaudible]

3 MR. STRICKLAND: Doing all right; how are you?

4 MS. BEAM: I'm okay. [inaudible]

5 MS. STRICKLAND: We actually were just down  
6 there.

7 MS. BEAM: Okay. [inaudible]. So [inaudible]  
8 wanted to ask you about [inaudible] okay?

9 MS. STRICKLAND: Mm-hmm.

10 MS. BEAM: And in it, you checked the box that  
11 you were not willing to waive confidentiality in order  
12 to permit [inaudible] office or to attempt resolution  
13 of the [inaudible] matter. Now, I just want to make  
14 sure you understand what that means when you check that  
15 box; okay? That means that I can't talk to anyone.

16 MS. STRICKLAND: Mm-hmm.

17 MS. BEAM: So I won't be able to investigate  
18 your claim. However, if you waived the confidentiality,  
19 what that means is that your claim still has to be  
20 confidential.

21 MS. STRICKLAND: Okay.

22 MS. BEAM: I can only share it with those that

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1 are on a need-to-know basis which would be --

2 MS. STRICKLAND: Okay.

3 MS. BEAM: -- like James Ishida would get a  
4 copy of my report. Most likely, he'd share it with  
5 Chief Judge Gregory --

6 MS. STRICKLAND: Okay.

7 MS. BEAM: -- since he's aware and probably  
8 wants to be kept in the loop. And then I would need to  
9 talk with JP Davis and Mr. Martinez --

10 MS. STRICKLAND: Okay.

11 MS. BEAM: -- since they're involved in the  
12 claim. But and if there were any other witnesses that -  
13 -

14 MS. STRICKLAND: Uh-huh.

15 MS. BEAM: -- you wanted me to talk to, I can.  
16 But other than that, that would be the extent of my  
17 communication about this matter to anybody.

18 MS. STRICKLAND: Okay.

19 MS. BEAM: Okay?

20 MS. STRICKLAND: Would they --

21 MS. BEAM: And also --

22 MS. STRICKLAND: I'm sorry. Keep going.

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1 MS. STRICKLAND: No, they don't.

2 MS. BEAM: Government employees, you know, a  
3 qualified government employee, since they haven't done  
4 that for that long. [Talking in background] [Shuffling  
5 things around in background]

6 MS. STRICKLAND: For -- for investigating it?

7 MS. BEAM: [Inaudible]

8 MS. STRICKLAND: Well, yeah -- yeah, I mean  
9 think that's -- that's necessary.

10 MS. BEAM: So, will you write a note on here  
11 basically saying I agree to allow me to speak with Tony  
12 Martinez and JP Davis solely to investigate this case.

13 MS. STRICKLAND: Okay.

14 MS. BEAM: And if there are any other people  
15 that you would like me to talk to, and I understand  
16 it's too late tonight and we're probably all a little  
17 tired, so why don't you think about it over the  
18 weekend, send me an email on Tuesday and just let me  
19 know if there's anyone else that you would like me to  
20 talk to.

21 MS. STRICKLAND: Okay.

22 MS. BEAM: Like you two discuss it, you know,

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1 if you've heard this another time, maybe they'll have  
2 some input as well. And I'm happy to go to whatever  
3 length I need to go to get this investigated completely  
4 and get you a resolution that's fair.

5 MS. STRICKLAND: Thank you. I do appreciate  
6 that, and I appreciate just your attention to it.

7 MS. BEAM: Yeah.

8 MS. STRICKLAND: But I agree to allow Heather  
9 Beam to speak with Tony Martinez and JP Davis solely  
10 for the purpose of investigating my complaint.

11 MS. BEAM: Okay. Thank you.

12 MS. STRICKLAND: I'm sorry for the [Shuffling  
13 things around in background] and I understand that.  
14 That's what I said when I talked to Nancy and I think I  
15 was on the phone with her for over two hours and I was  
16 like what just happened.

17 MS. BEAM: I just hope my husband remembers  
18 that I told him to pick up our [inaudible] this  
19 morning. [Talking in background]

20 MS. STRICKLAND: If you don't mind, I'm going  
21 to grab my parking ticket, because it got my little  
22 [inaudible] on it.

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8

"181109\_1540\_Redacted\_Limited Confidentiality"

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IN RE: CARYN DEVINS STRICKLAND V. UNITED STATES OF

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AMERICA, ET AL.

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20 Job No.: 479402

21 Pages: 1 - 33

22 Transcribed by: Christian Naaden

## Transcript of 181109\_1540\_Redacted\_Limited Confidentiality

24

1 MR. STRICKLAND: Yes. Something's gone wrong  
2 because Tony triggered nine --Caryn triggered nine and  
3 10 -- thought the nines were unified.

4 MS. BEAM: Right.

5 MR. STRICKLAND: Counseling ends on the 29th  
6 of November and there's no renewal of it based off of  
7 what James has said.

8 MS. BEAM: Right. Right

9 MR. STRICKLAND: So, it seems at that point  
10 it's going to mediation.

11 MS. STRICKLAND: Right. And I'm --- I'm just -  
12 - you know, I mean, I -- I haven't heard anything from  
13 James in like six weeks.

14 MS. BEAM: Yeah. Well, there may have to be a  
15 separate investigation done then under Tony's conduct  
16 because I mean, I'd really, you know, been focusing on  
17 the sexual harassment and intimidation claim with JP as  
18 well as how Tony handled it.

19 MS. STRICKLAND: Mm-hmm.

20 MS. BEAM: Okay? So, that's what I've been  
21 focused on. So, if there's a true feeling of  
22 retaliation, then I think that might be investigated

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## Transcript of 181109\_1540\_Redacted\_Limited Confidentiality

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1 separately. I'll have to talk to James about that

2 MS. STRICKLAND: Mm-hmm. I mean, the -- yeah.

3 And it would be -- it would basically be based on the --  
4 - the same facts. I had -- and everything that I've  
5 given you. Do you have a copy of both the grievance and  
6 the -- you do? Okay.

7 MS. BEAM: Yep.

8 MS. STRICKLAND: That's good. That'll help.  
9 Yeah.

10 MR. STRICKLAND: That's it?

11 MS. STRICKLAND: Yeah. So, yeah. I'm glad that  
12 we clarified that because I kept thinking of like, you  
13 know -- because, you know, like I said, basically the  
14 last substantive communication I have with James,  
15 except for getting this one extension, is he basically  
16 said, you know, if you want to do counseling, all we  
17 can really do for you at this point is, you know, you  
18 send the list of demands to Tony, basically, and --

19 MR. STRICKLAND: Well, hold on.

20 MS. STRICKLAND: Yeah.

21 MR. STRICKLAND: But you -- you're pretty  
22 certain you're not the chapter x counselor?

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CONVERSATION

"181127\_1711"

IN RE: CARYN DEVINS STRICKLAND V. UNITED STATES OF  
AMERICA, ET AL.

Job No.: 479402

Pages: 1 - 40

Transcribed by: Christian Naaden

1     implicated -- is -- if it's substantiated that he was  
2     involved in escalating and mishandling this situation,  
3     then he shouldn't be involved in discipline.

4             But on the same token, it - it also seems to  
5     be important to the Chapter 10 claim because that --  
6     and that was kind of -- and I feel like - you know, I'm  
7     not sure if there's confusion over my disqualification  
8     request or there's a way that I can make it more clear.

9             I'm happy to do that but it's the same problem  
10    essentially that you just identified, which is that if  
11    he is involved and he -- and retaliation is  
12    substantiated against him, then I don't see how I can  
13    negotiate a settlement with him.

14            MR. ISHIDA: Well, I think at the time it was  
15    raised -- and I had a conversation with Judge Gregory  
16    about it. I think the initial steps was -- it's  
17    premature at this point without a finding. Because if  
18    we disqualify Tony now, then there's really no one that  
19    represents the office, so I think -- I think -- if I  
20    remember, the thought was well why don't we see how the  
21    investigation goes and we can make a decision at the  
22    appropriate time as to whether or not Tony's involved

1 or not. I think that's how the discussion went.

2 MS. STRICKLAND: Okay. So --

3 MR. ISHIDA: But -- but in any event, I mean I  
4 think the practical effect is if -- if Heather does  
5 substantiate the allegation of retaliation, then, you  
6 know, we would not consider it appropriate that he be  
7 in a position to determine discipline.

8 And that would be -- so under the plan, the  
9 chief judge or the unit executive is charged with  
10 determining discipline. So, in this case, I would  
11 imagine that Judge Gregory would be involved.

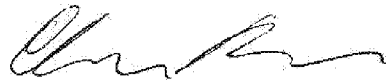
12 MS. STRICKLAND: Okay. So, is -- is there --  
13 so, it sounds like the disqualification issue, it's  
14 almost like, to put a legal term on it, it's being held  
15 in abeyance. I guess one thing that's being -- that's  
16 confusing to me though is why I have not actually  
17 received a ruling on that yet because I think that that  
18 would help me have more clarity on where we are in the  
19 process and you know, kind of what -- what my options  
20 are, especially if, you know, fifteen days from now or  
21 whatever, I file for mediation, I mean it's really  
22 going to be the same issue.



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# Transcript of 190117\_1621\_Limited Confidentiality

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"190117\_1621\_Limited Confidentiality"

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IN RE: CARYN DEVINS STRICKLAND V. UNITED STATES OF  
AMERICA, ET AL.

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20 Job No.: 479402

21 Pages: 1 - 62

22 Transcribed by: Christian Naaden

## Transcript of 190117\_1621\_Limited Confidentiality

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1 MR. ISHIDA: Sorry. I missed that.

2 MR. STRICKLAND: Is it -- is it based on the  
3 findings of the investigator's report?

4 MR. ISHIDA: No. This was -- this was -- he --  
5 Judge Gregory had told me his decision before the  
6 reports came out.

7 MR. STRICKLAND: Okay.

8 MS. STRICKLAND: Okay.

9 MR. STRICKLAND: Yeah. It's -- the reason why  
10 I ask is I -- I -- I was just curious if -- I -- I kind  
11 of thought that, based off prior discussions, that --

12 MR. ISHIDA: Well, no -- no --

13 MR. STRICKLAND: -- we -- we were waiting on  
14 the report in order to determine whether the facts  
15 supported disqualification or not.

16 MR. ISHIDA: No, no. I'm -- I'm sorry. I'm --  
17 I'm ge- -- I'm getting -- I'm getting mixed up. Let me  
18 -- let me remember this. And -- and she was actually  
19 with me when we talked about this.

20 I think the report had come out, because  
21 that's why we were waiting on Caryn's request, because  
22 we could not make that determination until we actually

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## Transcript of 190117\_1621\_Limited Confidentiality

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1 saw the report. Think that was right. I'll have to go  
2 back and double check, but I think that's why we had  
3 waited.

4 MR. STRICKLAND: Yeah -- yeah. I recall the --  
5 well, my sense of what the hold-up was from when that  
6 de- -- request for disqualification was filed in  
7 September is that it -- the investigation needed to be  
8 done in order to find out whether Tony had engaged in  
9 wrongdoing, including actionable retaliation.

10 MR. ISHIDA: Right. And -- and we -- so we  
11 waited for the report. And we also -- we also reached  
12 out to the AO's general counsel's office for their  
13 input as well.

14 MR. STRICKLAND: Okay.

15 MS. STRICKLAND: Okay.

16 MR. STRICKLAND: Is it just a -- is it -- is  
17 it more of a basis where a unit executive just can't be  
18 disqualified? Or is it based off the --

19 MR. ISHIDA: We- --

20 MR. STRICKLAND: -- findings of the report?

21 MR. ISHIDA: You know, I -- I would wait for  
22 the order to come out, because the order's going to

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## Transcript of 190117\_1621\_Limited Confidentiality

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1 speak for itself.

2 MR. STRICKLAND: Okay. But you -- you're  
3 preparing the order. So --

4 MR. ISHIDA: Well, I'm preparing it for Judge  
5 Gregory's review.

6 MR. STRICKLAND: Okay.

7 MS. STRICKLAND: Okay. We'll -- we'll wait.  
8 Let's -- yeah. We'll -- we'll wait --

9 MR. ISHIDA: Okay. So --

10 MS. STRICKLAND: -- for the order.

11 MR. ISHIDA: So I think what I would show that  
12 -- let's see. So -- so the -- this was -- this was  
13 months ago. At the time, I was, you know, meet- --  
14 there were -- there were -- there were -- there was  
15 decision-making, and there was, you know, consideration  
16 by me as to -- well, at the time I was contemplating  
17 ordering an investigation, and the scope of the  
18 investigation.

19 I reached out to the AO's general counsel  
20 office for, you know, guidance on that. And one of the  
21 things that we had talked about was, okay, when this  
22 report is completed, who is it distributed to? So we

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## Transcript of 190117\_1621\_Limited Confidentiality

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1 of course, this is -- we're not trying to shoot the  
2 messenger here. We know this is, you know -- you're --  
3 this is what OGC recommended. But the idea that it  
4 disincentivizes an informal resolution seems really  
5 counterintuitive to me because it actually seems to  
6 create an incentive to accelerate this.

7 Because neither side can find out the basic  
8 facts and findings of what happened without it going to  
9 a final hearing. So I'm not sure -- to the extent that  
10 there is a pragmatic angle on what they're trying to  
11 incentivize, it may be true as a general matter. But  
12 I'm not sure that that is true in this particular case.

13 MR. ISHIDA: Well, I don't disagree with what  
14 either of you has said. You know, I'm -- you know, I --  
15 I'm left in the, I guess, impossible situation of  
16 trying to discern the basis for OGC's advice to us. And  
17 I don't -- certainly don't want to speak for them.

18 I mean, their -- their advice, their counsel  
19 to us make a lot of sense, and we intend to follow it.  
20 Does it, you know -- I mean, it -- are there issues and  
21 difficulties? I think we can all agree that there are  
22 different views on it they can take.

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## Transcript of 190117\_1621\_Limited Confidentiality

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1 MR. STRICKLAND: On interpreting the report?

2 MR. ISHIDA: No. On -- on interpreting what  
3 makes sense, and what procedure we, you know --  
4 effectuates a good outcome. I mean, I think we can -- I  
5 think we all -- you know, we can agree that the process  
6 has -- is not perfect.

7 MS. STRICKLAND: Right. Well, what --? I'm  
8 sorry. I'm just going back to something a little bit  
9 earlier that you said about Chapter 9. So when -- when  
10 will Chapter 9 be acted upon?

11 MR. ISHIDA: Well, unlike Chapter 10, there  
12 are no deadlines in Chapter 9. But -- but, you know,  
13 there -- there -- there is a good, practical reason for  
14 deferring this. I mean, if -- if -- if you -- if you  
15 look at judicial misconduct, there's a lot of times  
16 where a complaint against a judge will be filed.

17 An EDR complaint and a judicial misconduct  
18 complaint under the Judicial Conduct and Disability Act  
19 typically, like -- like in this case, you've got two  
20 different claims, two different tracks a lot of times  
21 arising from the same set of fact.

22 And so what we've done in the past is we have

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## Transcript of 190117\_1621\_Limited Confidentiality

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1 done what we are contemplating doing here. And that is,  
2 you hold the judicial conduct piece of this in advance,  
3 and you let the EDR piece just go forward.

4 MR. STRICKLAND: It's an uncomfortable  
5 situation. I -- you know, because this is going to  
6 require Caryn to mediate with somebody that she has  
7 alleged engaged in wrongdoing. That's -- that's an  
8 awkward thing to do. It's also going to require her to  
9 come up with thoughts about how this could be resolved  
10 not knowing whether the first assistant is going to  
11 remain in his job and in that duty station.

12 MR. ISHIDA: Well, I think this is -- that  
13 would be certainly be a matter that can be brought in  
14 mediation.

15 MR. STRICKLAND: So it -- so -- so but -- but  
16 in -- but how would that work in mediation? How would  
17 you bring it up? Would you have to, essentially, try to  
18 talk Tony into under- -- understanding that?

19 MR. ISHIDA: Well --

20 MR. STRICKLAND: Because that's been attempted  
21 before.

22 MS. STRICKLAND: I --

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## Transcript of 190117\_1621\_Limited Confidentiality

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CONVERSATION  
"190207\_1056\_Limited Confidentiality"  
IN RE: CARYN DEVINS STRICKLAND V. UNITED STATES OF  
AMERICA, ET AL.

Job No.: 479402

Pages: 1 - 103

Transcribed by: Christian Naaden

## Transcript of 190207\_1056\_Limited Confidentiality

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1 that they were going to deny it. So I don't even know.  
2 I don't even think anybody's reached out to Tony that  
3 I'm aware of.

4 MR. STRICKLAND: Tony won't -- in all  
5 likelihood, he will not know much of anything. He'll  
6 have gotten the two standard forms that are two pages  
7 each that initiates counseling and the mediation  
8 request. He'll have about four pages of information. He  
9 won't know.

10 MS. STRICKLAND: He doesn't know.

11 MR. STRICKLAND: He's a target.

12 MS. STRICKLAND: Right. He doesn't have that  
13 narrative grievance that I gave you.

14 MR. SMITH: Okay.

15 MR. STRICKLAND: He was removed from the  
16 process very early on.

17 MR. SMITH: And that may be why, because he is  
18 involved in what happened and -- but he is the decision  
19 maker. Okay. Well, we'll -- we'll see what -- what  
20 happens Monday, but I mean, he was very quick to react  
21 to me, so that's generally a good sign. I've had cases  
22 where they quite try and even meet with me. I've seen

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## Transcript of 190207\_1056\_Limited Confidentiality

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# Transcript of 190226\_1153

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IN RE: CARYN DEVINS STRICKLAND V. UNITED STATES OF

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AMERICA, ET AL.

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20 Job No.: 479402

21 Pages: 1 - 118

22 Transcribed by: Christian Naaden



## Transcript of 190226\_1153

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1 and I heard Tony come in and say, I'll just promise you  
2 he won't show up in Ashville anymore and I promise you  
3 even though I'm going to make you do trial work, JP  
4 won't do anything to you, because even though he's  
5 still first assistant and over all of that, I just -- I  
6 don't think that's going to -- nobody's going to buy  
7 that.

8 MR. SMITH: Well, what I mean by that --

9 MR. STRICKLAND: Is it because they won't  
10 micromanage the office?

11 MR. SMITH: Well, partly. One, what I'm mainly  
12 talking about is you're not going go get what you want,  
13 a lot of what you want is the backtalk and the optics  
14 of the whole thing to go away and that's not going to  
15 happen.

16 I think that goes away more likely if you have  
17 a settlement agreement, because to me that vindicates  
18 you, that Tony had to sit down and resolve this because  
19 you were wronged.

20 That's mainly what I'm talking about, but to  
21 get back to your other thing, it's like telecommuting.  
22 If you go look at the telecommuting police of the

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## Transcript of 190226\_1153

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1 Fourth Circuit, it's the unit head's decision and it  
2 can be revoked at any time.

3 There is no right and that's specifically in  
4 the policy, there is no right of an employee to  
5 telecommute and if Tony doesn't re-up and somebody else  
6 comes in, I mean, first thing they could do is tear it  
7 up.

8 Therefore I think in drafting a settlement  
9 agreement that binds Tony, you have the better ability  
10 to work these things in there, because I don't think  
11 the judge is going to micromanage this office and tell  
12 a federal defender how to do his job and run his  
13 office.

14 They'd be better off terminating him. They  
15 would -- to me, terminate him first.

16 MS. STRICKLAND: Mm-hmm.

17 MR. SMITH: But that's not something, the way  
18 I read the EDR, and I'm not giving any legal advice,  
19 that would allow you to put in a [inaudible] for relief  
20 that JP or Tony be terminated.

21 MS. STRICKLAND: Right.

22 MR. SMITH: I think you all read it the way I

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## Transcript of 190226\_1153

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